

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

SMARTMATIC USA CORP., SMARTMATIC INTERNATIONAL HOLDING B.V., AND SGO CORPORATION LIMITED, Petitioners, vs. BRANNON HOWSE,) CASE NO. 2:23-MC-00034)) JUDGE MARK S. NORRIS)) MAGISTRATE JUDGE ANNIE T.)) CHRISTOFF)))) MEMORANDUM IN SUPPORT OF)) MOTION FOR STATUS CONFERENCE))) Related to Action Pending in the U.S. District) Court of the District of Minnesota, <i>Smartmatic</i>) <i>USA Corp., et al. v. Lindell, et al.</i> , 22-cv-) 00098-JMB-JFD
Respondent.)

On September 25, 2023, Smartmatic¹ filed its Motion to Compel Compliance with Third-Party Subpoena directed at Respondent Brannon Howse. (Dkt. 1.) At the time, fact discovery in Smartmatic’s underlying litigation against Michael J. Lindell and My Pillow, Inc. (“Defendants”) in the U.S. District Court of the District of Minnesota (the “Minnesota Litigation”) was scheduled to close on October 20, 2023. *See* Exhibit A to Declaration of James R. Bedell (“Bedell Decl.”), Second Amended Pretrial Scheduling Order, at 2. Mr. Howse filed his response on October 17, 2023 (Dkt. 13) and Smartmatic filed a reply on October 30, 2023. (Dkt. 20.)

Since Smartmatic filed its Motion to Compel, logistical impediments affected the Minnesota Litigation. Ten days after Smartmatic filed its opening brief, counsel for Defendants filed a motion to withdraw as counsel. Bedell Decl. Ex. B, Motion to Withdraw. As the parties were working through the logistics of Defendants’ new counsel getting up to speed, the Minnesota

¹ Smartmatic USA Corp., Smartmatic International Holding B.V., and SGO Corporation Limited are collectively referred to as “Smartmatic.”

Litigation was assigned to a new district judge. Bedell Decl. Ex. C, Clerk's Notice of Reassignment. On April 15, the court in the Minnesota Litigation entered an order on all pending motions and re-opened fact discovery with a new deadline of June 11, 2024. Bedell Decl. Ex. D, Order, at 57.

The Minnesota Litigation is back on track and the parties are actively working to close out all remaining discovery items. Smartmatic is prepared to enforce its subpoena directed at Mr. Howse as part of that. Thus, Smartmatic respectfully requests that the Court schedule a status conference by which the parties can plan the resolution of this discovery item.

Respectfully submitted,

s/ James R. Bedell

KAL K. SHAH
Illinois ARDC No. 6275895
JULIE M. LOFTUS (admitted *pro hac vice*)
Illinois ARDC No. 6332174
BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
71 South Wacker Drive, Suite 1600
Chicago, Illinois 60606-4637
Telephone: 312.212.4949
Facsimile: 312.767.9192
Email: kshah@beneschlaw.com
jloftus@beneschlaw.com

JAMES R. BEDELL (admitted *pro hac vice*)
Ohio Bar No. 97921
BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
127 Public Square, Suite 4900
Cleveland, Ohio 44114
Telephone: 216.363.4500
Facsimile: 216.363.4588
Email: jbedell@beneschlaw.com

Attorneys for Petitioners